



Pacific PEER

Public Employees for Environmental Responsibility

December 6, 2021

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

The current U.S. Environmental Protection Agency (EPA) leadership has pledged to increase transparency within the agency generally and within the New Chemicals Division of the Office of Chemical Safety and Pollution Prevention (OCSPP) implementing the requirements of the Toxic Substances Control Act (TSCA).

One particular area of controversy has been the extensive use of “confidential business information” (CBI) classification to shield certain materials in new chemical applications from public view.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER), requests information concerning the current nature and extent of CBI within OCSPP. Specifically, we request the following:

1. The number and titles of health and safety studies which OCSPP has stripped of CBI designation during 2021;
2. The number of companies’ CBI claims OCSPP has audited during 2021, as well as the number of the CBI claims that OCSPP has denied this year;
3. The number of Safety Data Sheets for which OCSPP has allowed CBI designation during 2021; and
4. Any cumulative count of CBI claims for new chemical assessments granted by OCSPP from January 1, 2016, through December 31, 2020, broken down by the type of information accorded CBI status (chemical formula, manufacturing site, health and safety information, etc.).

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]),



Pacific PEER

Public Employees for Environmental Responsibility

provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)). Disclosure of these records is in the public interest for the following reasons:

1. The records concern the operations or activities of the Government.

The FOIA request is, by its terms, limited to identifiable activities of EPA employees and one of its divisions, thus, the requested records concern operations or activities of the Government.

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.

The requested documents will enable the public to see whether the TSCA prohibition against extending CBI to health and safety studies has been enforced. The material will also give the public a glimpse at how much information is being withheld from public view at corporate request, including whether safety warning information designed to protect workers and consumers is also being withheld.

The request will also help reveal the extent to which agency claims of transparency are actually being implemented.

3. The release of these requested records will contribute significantly to public understanding of the governmental activities.

The OCSPP hazard identifications and risk conclusions which are the subject of this request concern the risk assessments used to compile Safety Data Sheets. These Safety Data Sheets are, in turn, used by employers and workers when making decisions regarding mitigation of risks in the workplace. Occupational diseases caused by industrial chemicals result in an estimated annual 50,000 to 70,000 deaths, and 350,000 cases of illness in the United States.

The nature of the information should allow the public to better understand to what extent these risks are clearly communicated – a matter bearing directly on key public health protections. In addition, the information will help the public more clearly grasp how much of the assessments required by the 2016 TSCA amendments they are not allowed to see.

The information will also enable the public to ascertain the extent to which EPA defers to industry request for confidentiality. That information is also one index of the degree of corporate influence over EPA risk assessment decisions.

PEER intends to provide the requested information to members of Congress and its relevant committees. We also intend to disseminate it to the general public though —

- Release to the news media;



Pacific PEER

Public Employees for Environmental Responsibility

- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, there has already been extensive media coverage on the adequacy and transparency of chemical risks assessments now being conducted by OCSPP.

4. *Disclosure would not serve a commercial interest of the requestor.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (510) 213-7028. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
PEER Pacific Director